S.B. CIVIL WRIT PETITION NO.2918/1995.
(MUNICIPAL COUNCIL, UDAIPUR VS. BHURI LAL & ORS.)

DATE OF ORDER : 13.04.2007.

HON'BLE MR. GOVIND MATHUR, J.

Mr. B.S. Charan for the petitioner.
Mr. K.R. Chaudhary for the respondents.

By this petition for writ, a challenge is given to the order dated 16.02.2005 passed by Labour Court, Udaipur in Labour Case No. 76/91.

The appropriate government under its notification dated 23.07.89 made a reference of an industrial dispute for its adjudication to Labour Court, Udaipur in following terms:

> "Whether the termination of workman Bhuri Lal Meghwal by the employer Commissioner, Municipal Council, Udaipur without giving any prior intimation or notice is justified and legal? If not, then for what relief, the workman is entitled?

The Labour Court after adjudicating the dispute referred to it answered the reference by holding that the termination of workman was not justified and, therefore, ordered for his reinstatement with 50% of total back wages. The

contention of counsel for the petitioner while assailing validity and propriety of the award dated 16.02.1995 is that the workman was never terminated from service by the employer, but he abandoned the same at his own and the Labour Court failed to appreciate that.

I do not find any force in the contention so raised as the Labour Court after discussing the evidence available on record rightly drawn the inference that there was no reason or occasion for workman to abandon the service and the ground of abandonment of service was taken by the employer as a ploy to cover illegal termination of the workman. The Labour Court also observed that during pendency of the proceedings before the Conciliation Officer, the workman reported before the employer to join duties, but he was not taken on service and this fact too establishes his keenness to join service.

The contention of the counsel for the petitioner that the Labour Court erroneously allowed the back wages to the workman without verifying the fact about his gainful employment is also having no foundation as the Labour Court by drawing inference that the workman should have been working some where during the period he was out of employment, allowed only 50% of back wages.

As such, the award impugned does not suffer from any error that may warrant interference of this Court under Article 226 and 227 of the Constitution of India. The writ petition, therefore, is dismissed.

(GOVIND MATHUR)J.

Anil/